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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,383	10/04/2001	Sanjay Kumar	020431.0779	7365
5073	7590	03/15/2005	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			JASMIN, LYNDA C	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

V **Office Action Summary**

Office Action Summary	Application No.	Applicant(s)	
	09/972,383	KUMAR ET AL.	
	Examiner	Art Unit	
	Lynda Jasmin	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 November 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-41 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/30/04; 12/8/04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on November 18, 2004 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of Copending Application 09/398,171 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

2. Claim 1 is objected to because of the following informalities: at line 4, the abbreviated term "ATP" should be written out on the first occurrence for clarity. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al. (WO 11/17795), in view of Asthana et al. (5,265,006).

Kennedy et al. discloses the fulfillment management system and method comprising: a database (via fulfillment server 16) operable to store product availability information associated with at least one product (see pages 9, 10), and one or more

processors (via client 12, fulfillment server 16, LFM_s 22 and ATP servers 14) collectively operable to: receive at least one component available-to-promise (ATP) request, each component ATP request corresponding to all ATP request line-item for a desired product, retrieve from the database at least a portion of the product availability information associated with the desired product for each component ATP request, determine an ATP response for each component ATP request using the retrieved product availability information, generate a component quotation for each component ATP request according to the corresponding ATP response, and communicate the component quotation for consolidation with other component quotations (see page 7, lines 10-19; claim 1). Further, the one or more processors collectively operable to: receive at least one component quotation confirmation, each component quotation confirmation corresponding to a particular quotation line-item accepted at a client, determine a promise response for each component quotation confirmation using at least a portion of the product availability information in the database, generate a component promise for each component quotation confirmation according to the corresponding promise response, the component promise representing a commitment of product availability for the corresponding accepted product, and communicate the component promise for consolidation with other component promises (see page 7, lines 20-32; claim 8). Kennedy further discloses receiving a component request cancellation associated with a component ATP request or a component promise, date the product availability information associated with the desired product in the database, and generate a component cancellation confirmation for communication (see page 17

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element 23), receiving a component acceptance corresponding to a particular promise line-item accepted at the client, record the component acceptance in the database, and generate a component acceptance confirmation for communication (see page 17 element 20).

However, Kennedy fails to explicitly disclose a local database storing consolidated product availability information from a plurality of available to promise server.

Asthana discloses the concept of having a load construction module which process relevant data in a system database to build loads from available orders. Asthana further discloses having communications level responsible for mapping, monitoring and collecting statistics. It passes the parameters from global down to local level and feeds back the current information from local to global. At the local level, the system follows the guidelines from higher levels for planning the consolidation of orders into loads, the assignment of these consolidated orders to vans, and the repositioning of empty capacity (vans) based on the constraints imposed by time frames and minimizing costs. Hence, the decisions made at the local level are consistent with the global objectives.

From this teaching of Asthana it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the available to promise servers of Kennedy to include the consolidated product availability taught by Asthana in order to facilitate grouping order into loads.

As per claims 19 and 41, Kennedy et al. discloses the structural elements at the claimed invention, but fails to explicitly disclose receiving at least one component available-to-promise (ATP) request using Hypertext Transfer Protocol (HTTP). It is the Examiner's position that Kennedy et al. discloses network 18 which may be a local area network (LAN), a wide area network (WAN), or a global network such as the Internet. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided Kennedy et al. with an HTTP to access information on the Internet since such protocol is standard in establishing connection each time a request is made for accessing resource on World Wide Web page, and the Examiner takes official notice as such.

5. Applicant is reminded that it has been held that the recitation that an element is "operable to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 22 and 39-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

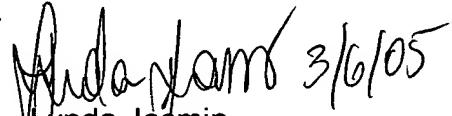
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465. The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lynda Jasmin
Primary Examiner
Art Unit 3627

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